

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN JOSE DIVISION)

GPNE Corp.,
Plaintiff,

v.

APPLE INC.
Defendant.

GPNE Corp.,
Plaintiff,

v.

AMAZON.COM, INC.,
Defendant.

GPNE Corp.,
Plaintiff,

v.

NOKIA CORP. AND NOKIA INC.,
Defendants.

GPNE Corp.,
Plaintiff,

v.

PANTECH CO., LTD AND PANTECH
WIRELESS, INC.,
Defendants.

Case No. 5:12-cv-02885-LHK
Case No. 5:12-cv-03055-LHK
Case No. 5:12-cv-03056-LHK
Case No. 5:12-cv-03057-LHK

**EXHIBIT B TO THE PARTIES JOINT
CLAIM CONSTRUCTION AND
PREHEARING STATEMENT –
DEFENDANT’S PROPOSED
CONSTRUCTIONS AND SUPPORTING
EVIDENCE**

MOST SIGNIFICANT CLAIM TERMS**IDENTIFIED FOR CONSTRUCTION AND BRIEFING**

Claim Term	Case Dis. ¹	Clm. Dis. ²	Defendants' Proposed Construction	Supporting Evidence ³
1. allocation of additional resources for transmitting the data packets / allocation of additional resources for transmitting the first data packets		Y	assignment of a second dedicated frequency to the same node for transmitting the message, while retaining the assigned time slot for transmitting the "reserve access request signal"	<p>Intrinsic Support: '267 at 2:1-9; 2:60-61; 4:44-56; 5:64-6:20; 6:57-7:4; 8:34-41; Fig. 6; Fig. 9; Fig. 13.</p> <p>File History for USP 7,031,716 (App. 09/847,005), Sep. 27, 2004 Summary of 9/23/2004 Examiner Interview, at 2-3; Sep. 28, 2004 Summary of 9/24/2004 Examiner Interview, at 2-3.</p> <p>App. No. 95/002,350, Jan. 27, 2013 Resp. to Office Action.</p> <p>Extrinsic Support:</p> <p>Merriam-Webster Collegiate Dictionary (10th ed. 1993) at 13 (defining "additional");</p> <p>The IEEE Standard Dictionary of Electrical and Electronics Terms (6th ed. 1996) at 23-24 (defining "allocation"); 431 (defining "frequency allocation").</p>
2. clocking signal		Y	a signal generated by a clock unit	<p>Intrinsic Support: '267 at Fig 1; Fig. 2; Figs. 5-9; Fig. 13; 2:1; 2:60-61; 3:27-29; 3:63-67; 4:8-10; 4:33-35; 4:47-56; 4:67-5:2;</p>

¹ A **Y** in this column indicates that at least one Defendant believes this term is case dispositive for GPNE's case against it.

² A **Y** in this column indicates that at least one Defendant believes this term is claim dispositive for at least one patent claim asserted against it.

³ Because the patents-in-suit share the same specification, Defendants' citations to the '267 patent should be understood to include the corresponding citations in the '492 and '954 patents. In addition, citations to the figures in the patent should be understood to include the text in the specification associated with such figures, and vice versa.

Claim Term	Case Dis. ¹	Clm. Dis. ²	Defendants' Proposed Construction	Supporting Evidence ³
				6:5-10; 6:60-7:4; 8:25-26; 8:53-55; 9:62-65; 10:24-29; 10:60-64; 11:23-28. File History for the '267 Patent, Oct. 17, 2008 Amendment, Rule 131 Declaration, at Ex. F, at 13; <i>id.</i> at Ex. P, at 2, 5-6; <i>id.</i> , at Ex. D, at 3. File History for the '954 Patent, Sep. 19, 2008 Rejection, at 3; <i>id.</i> , Dec. 19, 2008 Amendment, at 17. File History for the '267 Patent, Feb. 24, 2009 Amendment, at 20. File History for USP 7,031,716, Aug. 17, 2004 Amendment, Mr. Wood Declaration, at 5; <i>id.</i> , Sep. 27, 2004 Summary of 9/23/2004 Examiner Interview, at 3; <i>id.</i> , Sep. 28, 2004 Summary of 9/24/2004 Examiner Interview, at 2-3; <i>id.</i> , Oct. 6, 2004 Summary of 9/28/2004 Examiner Interview, at 2.
3. count value			the number of consecutively related packets emanating from a transmitter	Intrinsic Support: '267 at 5:25-30. File History for the '267 Patent, February 24, 2009 Response to Office Action.
4. first grant signal including information relating to an allocation of a second slot to the first node for transmitting the reserve access request signal		Y	[first grant signal] including information identifying a slot to use for transmitting the 'reserve access request signal,' which the first	Intrinsic Support: '267 at 11:56-12:2; 12:67-13:15.

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			node identifies as intended for it because the information is transmitted in the same timeslot within which the first node transmitted the 'random access request signal'	
5. frequency	Y	Y	oscillation rate of a radio wave	<p>Intrinsic Support: '267 at Figs. 1-4; Figs. 6-11; Fig. 13; 1:55-62; 1:66-2:9; 2:10-17; 3:3-7; 3:27-32; 3:54-62; 4:31-56; 4:63-5:2; 5:56-6:7; 6:11-15; 6:21-23; 6:30-45; 6:57-7:4; 7:15-17; 7:28-31; 8:34-41; 8:62-9:9; 9:16-52; 9:60-10:29; 10:38-64; 11:6-19; 11:23-26; 11:34-49; 11:52-58; 12:3-34; 12:51-55; 12:58-61; 12:66-13:15; 13:28-35; 13:50-53; 13:58-67; 14:1-32.</p> <p>File History for the '492 Patent, Jul. 19, 2010 Amendment, at 27.</p> <p>File History for USP 7,031,716, Mar. 31, 2004 Amendment, at 5; <i>id.</i>, Sep. 28, 2004 Summary of 9/24/2004 Examiner Interview, at 2-3; <i>id.</i>, Sep. 27, 2004 Summary of 9/23/2004 Examiner Interview, at 2-3.</p> <p>Extrinsic Support:</p> <p>The New IEEE Standard Dictionary of Electrical and Electronics Terms, IEEE Std 100-1992, Fifth Edition (defining "frequency,"</p>

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				<p>“frequency band,” “frequency bands”).</p> <p>IBM Dictionary of Computer 288 (10th ed. 1994) (defining “frequency” and “frequency band”).</p>
6. interface [configured/controlled] by the at least one processor to [functional language]	Y	Y	<p>Electrical connections (e.g., wires or interconnect) that allow signals to pass between the processor and a transceiver (i.e., transmitter / receiver components).</p> <p>The functional language purportedly describing how the interface is controlled or configured imparts no structure to the interface and, therefore, is entitled to no patentable weight in distinguishing the prior art.</p> <p>Alternatively, if accorded patentable weight, this functional language renders the claims indefinite as</p>	<p>Intrinsic Support: ‘267 at 3:63-4:3, 4:14-19, 7:65-8:7, 8:47-52, 10:50-59, 12:25-31, 13:43-46; Figs. 1-2, 7-8.</p> <p>File History for the ‘267 Patent, Oct. 17, 2008 Office Action Response; <i>id.</i> at Ex. P to October 13, 2008 Declaration Of Gabriel Wong Under Rule 131, which is a May 31, 1994 letter from named inventor Gabriel Wong to patent attorney H. Warren Burnam Jr.</p> <p>Extrinsic Support:</p> <p>Microsoft Computer Dictionary 279 (5th Ed. 2002) (defining “interface”)</p> <p>Webster’s Encyclopedic Unabridged Dictionary of the English Language 993 (1996) (defining “interface”)</p> <p>Oxford Dictionary of Computing 229 (3rd Ed. 1991) (defining “interface”)</p> <p>Novell’s Dictionary of Networking 283 (1997) (defining “interface”)</p> <p>Webster's New World Dictionary of Computer Terms</p>

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			<p>hybrid apparatus / method claims.</p> <p><i>The Nokia Defendants do not believe this phrase needs to be construed.</i></p>	<p>285 (8th Ed. 2000) (defining "interface")</p> <p>Newton's Telecom Dictionary, 7th Edition, Apr. 1994 (defining "interface")</p> <p>Testimony of C.R. Baugh. Mr. Baugh will provide written and/or oral testimony regarding the meaning of the term interface and any structure imparted by the surrounding claim language. Mr. Baugh will render his opinion on:</p> <ul style="list-style-type: none"> • The level of ordinary skill in the art in or about June 1994; • the meaning of the term "interface," as recited in the asserted claims; • the meaning of the phrases "interface [configured / controlled] by the at least one processor to [functional language]," as recited in the asserted claims; • that the functional language in the claims (e.g., "transmit a random access request signal in a first slot, the random access request signal including information that allows determination that the first node requires an allocation of resources to transmit a

Claim Term	Case Dis. ¹	Clm. Dis. ²	Defendants' Proposed Construction	Supporting Evidence ³
				reserve access request signal”) imparts no particular structure to the claimed interface.
7. node	Y	Y	a pager operating independently of a telephone network	<p>Intrinsic Support: ‘267 at Figs. 1-11; 1:31-33; 1:34-2:61; 2:66-67; 3:3-9; 3:16-26; 3:32-35; 3:45-4:7; 4:20-27; 4:31-41; 4:44-59; 5:2-4; 5:5-11; 5:12-15; 5:31-6:30; 6:33-51; 6:54-56; 6:60-7:7; 7:15-17; 7:28-45; 7:48-52; 7:60-8:4; 8:31-37; 8:53-55; 8:62-9:9; 9:13-18; 9:53-56; 9:65-10:2; 10:35-45; 10:54-67; 11:6-12:16; 12:37-50; 12:58-64; 13:1-7; 13:10-57; 13:65-67; 14:14-16; 14:25-40; 14:55-57.</p> <p>File History for the ‘267 Patent, Oct. 17, 2008 Amendment, Rule 131 Declaration; <i>id.</i> at Ex. F, at 10; <i>id.</i> at Ex. F, at 23; <i>id.</i> at Ex. L.</p> <p>Extrinsic Support:</p> <p>GPNE_MPM_003487; GPNE_MPM_005980; GPNE_MPM_006112.</p>
8. providing code to	Y	Y	which is currently supplying code to	<p>Intrinsic Support: ‘267 at 7:28-8:26; Fig. 5.</p> <p>Extrinsic Support:</p> <p>Concise Oxford English Dictionary, Eleventh Edition, 2004 (defining “provide” and “participle” and Appendix 11 Guide to Good English, Participles, p1702). Webster’s II New Riverside Dictionary, Revised Edition, 1996 (defining</p>

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				“provide” and “participate”).
9. randomly generated information		Y	identification of the randomly selected time slot	Intrinsic Support: '267 at 11:56-12:2.

ADDITIONAL CLAIM TERMS**DEFENDANTS IDENTIFIED FOR CONSTRUCTION**

Claim Term	Case Dis. ⁴	Clm. Dis. ⁵	Defendants' Proposed Construction	Supporting Evidence ⁶
10. aligning signal		Y	<i>Same as "clocking signal"</i>	<i>Same as "clocking signal"</i>
11. allocation of resources to transmit a reserve access request signal		Y	assignment of a time slot on a single dedicated frequency to one node to transmit a "reserve access request signal"	Intrinsic Support: '267 at 2:1-9; 2:60-61; 4:44-56; 5:64-6:20; 6:57-7:4; 8:34-41; 12:12-21; 13:23-38; Fig. 6; Fig. 9; Fig. 13. File History for USP 7,031,716 (App. 09/847,005), Sep. 27, 2004 Summary of 9/23/2004 Examiner Interview, at 2-3; Sep. 28, 2004 Summary of 9/24/2004 Examiner Interview, at 2-3.
12. authorization signal		Y	assignment of a dedicated frequency to the node for transmitting the communication message	Intrinsic Support: '267 at 5:64-6:20; 6:57-7:15; 8:38-41; Fig. 6; Fig. 9. File History for USP 7,031,716 (App. 09/847,005), Sep. 27, 2004 Summary of 9/23/2004 Examiner Interview, at 2-3; Sep. 28, 2004 Summary of 9/24/2004 Examiner Interview, at 2-3.
13. configured by		Y	which is currently setup for operation in a	Intrinsic Support: '492 at claims 11, 12, 22, 41, 49, 59 and

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⁶ Because the patents-in-suit share the same specification, Defendants' citations to the '267 patent should be understood to include the corresponding citations in the '492 and '954 patents. In addition, citations to the figures in the patent should be understood to include the text in the specification associated with such figures, and vice versa.

Claim Term	Case Dis. ⁴	Clm. Dis. ⁵	Defendants' Proposed Construction	Supporting Evidence ⁶
			particular way by	68. Figs. 4-6, 9-10. Extrinsic Support: Concise Oxford English Dictionary, Eleventh Edition, 2004 (defining "configure"). Webster's II New Riverside Dictionary, Revised Edition, 1996 (defining "configure"). Cowan, Ron, The Teacher's Grammar of English, Cambridge University Press 2008 ("Omission of Nonsubject Relative Pronouns"). Hacker, Diana, Rules for Writers Sixth Edition, Bedford/St. Martins 2008, p. 233, p. 555. Casagrande, June, It Was the Best of Sentences, It Was the Worst of Sentences, Ten Speed Press 2010, p. 78.
14. controlled by		Y	which is currently under the control of	Intrinsic Support: '267 at 12:61-65; 13:53-65; Figs. 4-6, 9-10. Extrinsic Support: Concise Oxford English Dictionary, Eleventh Edition, 2004 (defining "control"). Webster's II New Riverside Dictionary, Revised Edition, 1996 (defining "control"). Cowan, Ron, The Teacher's Grammar of English, Cambridge University Press 2008 ("Omission of Nonsubject Relative Pronouns"). Hacker, Diana, Rules for Writers Sixth Edition, Bedford/St. Martins 2008, p. 233, p. 555.

Claim Term	Case Dis. ⁴	Clm. Dis. ⁵	Defendants' Proposed Construction	Supporting Evidence ⁶
				Casagrande, June, It Was the Best of Sentences, It Was the Worst of Sentences, Ten Speed Press 2010, p. 78.
15. first grant		Y	an assignment to a node of a timeslot, on a single dedicated frequency, and referencing the time slot at which the node made its request	Intrinsic Support: '267 at 2:7-9; 2:60-61; 4:44-56; 5:64-6:20; 6:57-7:4; 8:34-41; 12:12-21; 13:23-37; Fig. 6; Fig. 9; Fig. 13. File History for USP 7,031,716 (App. 09/847,005), Sep. 27, 2004 Summary of 9/23/2004 Examiner Interview, at 2-3; Sep. 28, 2004 Summary of 9/24/2004 Examiner Interview, at 2-3.
16. first request signal		Y	a request made on a single dedicated frequency in a time slot assigned to a node	Intrinsic Support: '267 at 2:1-9; 2:60-61; 4:44-56; 5:64-6:20; 6:57-7:4; 8:34-41; Fig. 6; Fig. 9; Fig. 13. File History for USP 7,031,716 (App. 09/847,005), Sep. 27, 2004 Summary of 9/23/2004 Examiner Interview, at 2-3; Sep. 28, 2004 Summary of 9/24/2004 Examiner Interview, at 2-3.
17. information relating to an allocation of additional resources		Y	indefinite	Intrinsic Support: N/A
18. message / communication message			an alphanumeric message entered by a user	Intrinsic Support: '267 at 1:35-51, 5:12-26, 5:64-6:37, 6:46-56, 7:9-15, 7:18-27; Figs. 4-6, 9. File History for the '267 patent, Abstract of Wong and Tsui, witnessed and signed on January 31, 1994, "Features of System" at ¶¶ 2, 6

Claim Term	Case Dis. ⁴	Clm. Dis. ⁵	Defendants' Proposed Construction	Supporting Evidence ⁶
19. random access request signal		Y	a request for access, transmitted on a single dedicated frequency in a random time slot	Intrinsic Support: '267 at 11:34-51; File History of the '492 Patent, Aug. 19, 2009 Response to Office Action, at 25-26. File History for USP 7,031,716 (App. 09/847,005), Sep. 27, 2004 Summary of 9/23/2004 Examiner Interview, at 2-3; Sep. 28, 2004 Summary of 9/24/2004 Examiner Interview, at 2-3.
20. reserve request signal / reserve access request signal		Y	a request made on a single dedicated frequency in a time slot assigned to a node	Intrinsic Support: '267 at 2:1-9; 2:60-61; 4:44-56; 5:64-6:20; 6:57-7:4; 8:34-41; Fig. 6; Fig. 9; Fig. 13. File History for USP 7,031,716 (App. 09/847,005), Sep. 27, 2004 Summary of 9/23/2004 Examiner Interview, at 2-3; Sep. 28, 2004 Summary of 9/24/2004 Examiner Interview, at 2-3.
21. second grant		Y	an assignment of a second dedicated frequency to a node for transmitting a message	Intrinsic Support: '267 at 4:44-56; 5:64-6:20; 6:57-7:15; 8:38-41; Fig. 6; Fig. 9. File History for USP 7,031,716 (App. 09/847,005), Sep. 27, 2004 Summary of 9/23/2004 Examiner Interview, at 2-3; Sep. 28, 2004 Summary of 9/24/2004 Examiner Interview, at 2-3.
22. subsequent acknowledgement			confirmation message for which the sender has requested and been granted access to send, this access is in	Intrinsic Support: '267 at 5:64-6:37; 8:62-9:9; Fig. 6.

Claim Term	Case Dis. ⁴	Clm. Dis. ⁵	Defendants' Proposed Construction	Supporting Evidence ⁶
			addition to the access previously granted to send the message	
23. terminal indication information			user-entered message termination character at the end of a message	Intrinsic Support: '267 at 5:20-30; File History of the '492 Patent, Aug. 19, 2009 Response to Office Action.
24. touch sensitive display input device		Y	a display that both displays information and accepts input by sensing pressure applied by a user	Intrinsic Support: '267 at Fig. 8; 10:65-11:2. Extrinsic Support: Webster's New World Dictionary of Computer Terms 536 (8th Ed. 2000) (defining "touch-sensitive display") The Computer Glossary 517 (6th Ed. 1993) (defining "touch screen")
25. transmit the first data packets in response to the second grant signal / transmit the data packets in response to the second grant signal		Y	send the message directly following the second grant signal without any intervening signals	Intrinsic Support: '267 at 4:44-56; 5:64-6:20; 6:57-7:15; 8:38-41; Fig. 6; Fig. 9.
26. transmit the first request signal...when the first node has a communication message to transmit		Y	transmit the first request signal every time the first node has a communication message to transmit	Intrinsic Support: '267 at 5:12-30; 5:66-6:11; 6:12-14; 6:21-28; 6:46-67; 7:1-4; 7:5-7; 7:18-27; 8:62-9:9; Fig. 4; Fig. 6; Fig. 12; Fig. 13. File History for the '267 Patent, Oct. 17, 2008 Amendment, Rule 131 Declaration, Ex. D, at 2. File History for USP 7,031,716, Aug. 17, 2004 Amendment, at 2-

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				3; <i>id.</i> at Dr. Udo Pooch declaration; <i>id.</i> at Mr. Samuel Wood declaration; <i>id.</i> , Sep. 28, 2004 Summary of 9/24/2004 Examiner Interview, at 3. File History for USP 7,200,406, Nov. 30, 2006 Reply to Rejection, at 28-29.